

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JOYCE MARIE SIMMONS,

Plaintiff,

v.

KIMBERLY LUKE,

Defendant.

Case No. [19-cv-00139-HSG](#)

**ORDER GRANTING REQUEST TO  
DEEM AMENDED COMPLAINT  
TIMELY FILED**

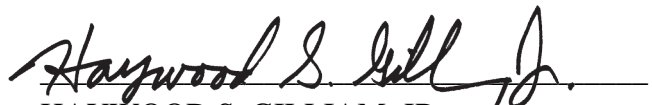
Re: Dkt. No. 12

Plaintiff, an inmate at the Federal Correctional Institution in Dublin, California, has filed the instant *pro se* action pursuant to 42 U.S.C. § 1983. On May 3, 2019, the Court dismissed the complaint with leave to amend. Dkt. No. 8. Plaintiff was instructed to file an amended complaint by May 31, 2019. *See id.* Plaintiff's amended complaint was submitted to prison authorities for mailing on May 31, 2019, and filed with the Court on June 17, 2019. Dkt. No. 11. The Court affords Plaintiff application of the prison mailbox rule. *See Houston v. Lack*, 487 U.S. 266, 276 (1988) (*pro se* prisoner filing is dated from the date prisoner delivers it to prisoner authorities). Plaintiff's amended complaint is deemed timely filed on May 31, 2019. The Court construes Plaintiff's request for leave to file the amended complaint out of time as a request to deem the amended complaint timely filed and GRANTS the request.

This order terminates Dkt. No. 12.

**IT IS SO ORDERED.**

Dated: 7/23/2019

  
HAYWOOD S. GILLIAM, JR.  
United States District Judge